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March 7, 2022

Mr. Brett Kruger  
Chief, U.S. Carrier Licensing  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Re: Order to Show Cause  
U.S. - Havana Authorizations  
DOT-OST-2020-0011

Dear Mr. Kruger:

This letter is respectfully submitted by Icelandair (ILRF049F), for the Department's consideration, with respect to the above-referenced Order to Show Cause, concerning advance allocation of U.S. - Havana public charter flights for the 2022-2023 year. This letter will be filed on the docket. Please see certificate of service, below.

By Order to Show Cause, the Department proposes to act on recent carrier applications and award advance allotments from the 2022- 2023 Cuba charter pool. The Department proposes allotting 2,234 round trip flights to iAero and 192 round trip flights to WAA. Advance allotments are authorized in Order 2020-5-7 (advanced allotment regime).

We also note the Department's wise goal to always promote competition. Such is squarely in the public interest and intended by Congress. Icelandair commends the Department's effort to foster and promote competition. Icelandair's concern, however, is that the proposed action (without some further modification), would inadvertently and unintentionally stymie, rather than promote competition - and thereby frustrate the public interest.

The Department tentatively plans to award iAero and WAA jointly, a total of 2,426 round trip flights, leaving only 1,174, or roughly less than a third of the total number of authorized annual flights, to be awarded on a first come, first serve basis. In the event the Department formally makes the proposed advance allotment to iAero and WAA, it should properly do so only after imposing certain objectively reasonable conditions:

The Department's proposed allotment of 2,426 allotments to iAero and WAA, jointly, represents approximately two thirds of the entire annual pool. The Department should properly pro-rate any advance allotment - on a monthly basis. Both carriers should be required to report monthly, the total number of flights operated (as they presently are) and should be concurrently required to promptly surrender and return to the pool, that same month, any/all unused flights for re-allocation.

For example, advance award to iAero of 2,234 flights is the equivalent of 186 flights per month. Any of those 186 flights not operated by iAero in any given month should properly be surrendered and promptly returned to the pool. Such obligation is not unduly burdensome. If iAero operates 150 round trip flights in any given month, the balance of 36 flights should be surrendered and returned to the pool - that same month. To do otherwise would be to inadvertently permit stockpiling of unused reserved flights<sup>1</sup>. iAero and WAA should properly be compelled to either "use it, or lose it" - monthly. Icelandair's instant proposal clearly fosters competition and would be squarely in the public interest.

Alternatively, it may be less burdensome (and perhaps more equitable), for the Department to instead simply make an adjustment and award, in advance, 50% of previous years' flights operated by each carrier.

WHEREFORE, Icelandair prays an Order modifying the Department's proposed resolution of the instant Order to Show Cause

Respectfully submitted,  
ICELANDAIR



Jonathan A. Fuchs  
General Counsel - Americas

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<sup>1</sup> As the Department is aware, Icelandair only made applications for allotment from the 2021-2022 pool, in good faith, based upon agreements already fully executed with an authorized charterer.

CERTIFICATE OF SERVICE

I, Jonathan A. Fuchs, hereby certify that a true copy of the foregoing document was served on *MARCH 7, 2012* on the following by electronic mail.

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